

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In re Petition of	)	CSR-____-E
	)	
<b>Time Warner Cable Inc.</b>	)	<b>PSID No. 006106</b>
For Determination of	)	
Effective Competition	)	Bromley KY0664
	)	Butler KY1049
	)	Crestview Hills KY0670
	)	Dry Ridge KY0869
	)	Fairview KY0747
To: Chief, Media Bureau		

**PETITION FOR SPECIAL RELIEF**

Time Warner Cable Inc. ("Time Warner Cable"), by its attorneys, and pursuant to Sections 76.7, 76.905(b) and 76.907 of the Commission's rules,<sup>1</sup> hereby petitions the Commission for a finding that Time Warner Cable's cable television system serving the above-captioned communities (unless otherwise noted, individually "Franchise Area" and collectively "Franchise Areas") is subject to effective competition<sup>2</sup> and therefore exempt from any rate regulation imposed pursuant to Section 623 of the Communications Act of 1934 (the "Act").<sup>3</sup>

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<sup>1</sup> 47 C.F.R. §§ 76.7, 76.905(b), 76.907.

<sup>2</sup> Pursuant to Section 76.910 of the Commission's rules, rate regulatory authority may be exercised only by a local franchising authority ("LFA") that has been properly certified. 47 C.F.R. § 76.910. To the extent that any political subdivision covered by this petition is an LFA and has been certified to regulate rates in accordance with the Commission's rules, Time Warner Cable respectfully requests that the Commission revoke such certification pursuant to Section 76.914(c). 47 C.F.R. § 76.914(c). To the extent that franchising responsibilities of any political subdivision covered by this petition have been reassigned to another governmental body, *e.g.*, pursuant to legislation providing for state-issued franchises, then that political subdivision is no longer an LFA and obviously would no longer have rate regulatory authority. In such event, Time Warner Cable is nevertheless seeking an effective competition determination to achieve the full competitive flexibility associated therewith.

<sup>3</sup> 47 U.S.C. § 543. Time Warner Cable requests that, consistent with Commission precedent, any FCC grant of effective competition in the Franchise Areas be effective as of the date of filing of this petition. *See, e.g., Altrio Communications, Inc. v. Adelphia Communications Corporation*, 17 FCC Rcd 22955, ¶ 5 (Med. Bur. 2002) (Commission order released September 26, 2002 found that Adelphia was subject to effective competition in the Arcadia, California franchise area as of October 1, 2001).

**I. TIME WARNER CABLE SATISFIES THE “50/15” OR “COMPETING PROVIDER TEST” IN THE FRANCHISE AREAS.**

Pursuant to Section 623(a)(2) of the Act,

[i]f the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section.<sup>4</sup>

The Act further provides that a cable system will be considered subject to effective competition (and therefore exempt from rate regulation) under the “50/15” test if, *inter alia*, the franchise area is:

(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area.<sup>5</sup>

As demonstrated below, effective competition exists in the Franchise Areas because competing multichannel video programming distributors (“MVPDs”), including direct-to-home (“DTH”) satellite providers such as DirecTV<sup>6</sup> and DISH Network<sup>7</sup> (collectively the “DBS Providers”), are available to more than 50 percent, and are subscribed to by more than 15 percent, of the households in such areas.

**A. Competing MVPD Services Are “Offered” in the Franchise Areas.**

According to the Commission’s rules, an MVPD’s service is deemed to be “offered” for purposes of effective competition:

(1) When the multichannel video programming distributor is physically able to deliver service to potential subscribers, with the addition of no or only minimal

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<sup>4</sup> 47 U.S.C. § 543(a)(2).

<sup>5</sup> 47 U.S.C. § 543(l)(1)(B); *see also* 47 C.F.R. § 76.905(b)(2).

<sup>6</sup> DirecTV is a registered trademark of DirecTV, Inc.

<sup>7</sup> DISH Network is a registered trademark of EchoStar Communications Corporation.

additional investment by the distributor, in order for an individual subscriber to receive service; and (2) When no regulatory, technical or other impediments to households taking service exist, and potential subscribers in the franchise area are reasonably aware that they may purchase the services of the multichannel video programming distributor.<sup>8</sup>

As demonstrated below, the DBS providers “offer” service in the Franchise Areas under this definition.

**1. The DBS Providers are “Physically Able” to Offer Service to Subscribers in the Franchise Areas.**

The Commission has repeatedly determined that DBS service is technically available throughout the continental United States due to its nationwide satellite footprint.<sup>9</sup> Therefore, the DBS Providers are “physically able” to offer service to subscribers in the Franchise Areas.

**2. No Regulatory, Technical or Other Impediments to Households Taking the DBS Providers’ Services Exist.**

The DBS providers’ services are deemed to be technically available in a franchise area if the footprints of their satellites cover the franchise area and there are no local regulations prohibiting reception by home satellite dishes.<sup>10</sup> As noted above, DBS services have been determined by the Commission to be available throughout the United States. Time Warner Cable is aware of no zoning restrictions in the Franchise Areas that would prevent potential subscribers from placing a small dish on their houses or on their properties in order to receive DBS service. Indeed, it would appear that any such restriction would violate Section 207 of the Telecommunications Act of 1996 and Section 25.104 of the FCC’s rules promulgated thereunder.<sup>11</sup> Further, the DBS providers do not need franchises to offer service to residents in

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<sup>8</sup>47 C.F.R. § 76.905(e).

<sup>9</sup> See, e.g., *Bright House Networks, LLC, Petition for Determination of Effective Competition*, Memorandum Opinion and Order, 22 FCC Rcd 4390, ¶ 6 (Med. Bur. 2007) (“*Bright House Networks*”).

<sup>10</sup>*Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 5631, ¶ 32 (1993) (“*Rate Order*”).

<sup>11</sup>Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996); see 47 C.F.R. § 25.104.

the Franchise Areas. As such, there are no regulatory, technical or other impediments to households taking the DBS providers' service.

**3. Potential Subscribers in the Franchise Areas are "Reasonably Aware" That They May Purchase the DBS Providers' Services.**

In light of the Commission's prior findings regarding the ubiquitous availability of DBS service, and in recognition of the DBS Providers' extensive national, regional and local advertising and marketing efforts through television and radio, Internet, print media and direct marketing, potential subscribers throughout the Franchise Areas are undoubtedly "reasonably aware" of the availability of the DBS Providers' services.<sup>12</sup> In addition, the Commission has held that the DBS Providers' extensive nationwide subscribership and growth in recent years, combined with a local DTH penetration of more than 15 percent in any given franchise area, is an accurate sign that potential subscribers within that franchise area are "reasonably aware" of the availability of the DBS Providers' services.<sup>13</sup>

Here, the presence of numerous subscribers of the DBS Providers' services in the Franchise Areas, as shown below, demonstrates that such individuals are all obviously aware of their ability to obtain service from a DBS Provider. Moreover, it is reasonable to assume the awareness of the availability of the DBS Providers' services only continues to increase as additional DBS dishes are prominently installed throughout the Franchise Areas.

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<sup>12</sup> The DBS Providers maintain comprehensive websites, [www.dishnetwork.com](http://www.dishnetwork.com) and [www.directv.com](http://www.directv.com), where consumers can learn more about local retail outlets and how to buy the necessary equipment online or through a toll-free number. See *Rate Order* at n. 104 ("[W]e believe that regional or local marketing, such as by a national or regional 800 telephone number, would suffice."). See also *id.* at ¶ 29; *Adelphia Cable Communications*, 20 FCC Rcd 20487, ¶ 6 (Med. Bur. 2005) ("*Adelphia Effective Competition Order*") (There is "no reason to require needlessly fractionalized marketing in order to ensure that a national or regional programming service is available in a particular community... [P]otential subscribers may be made reasonably aware of the availability of a competing service... through advertising in regional or local media, direct mail, or *any other* marketing outlet" (citing *Rate Order* at ¶ 29) (emphasis in original)).

<sup>13</sup> Indeed, the Commission has "found households in a franchise area to be reasonably aware that they may purchase DBS service solely based on evidence of DBS's nationwide growth and local subscriptions, without reference to advertising or other promotion." *Bright House Networks* at ¶ 6 (referencing *Adelphia Communications, et al., Nineteen Unopposed Petitions for Determination of Effective Competition in Forty-Seven Local Franchise Areas*, Memorandum Opinion and Order, 20 FCC Rcd 7503, ¶ 3 (Med. Bur. 2005)).

Because the three factors described above have been satisfied, the DBS Providers “offer” competing MVPD services in the Franchise Areas.

**B. The DBS Providers Offer “Comparable Multichannel Video Programming.”**

Effective competition exists where programming offered by an MVPD competitor is deemed “comparable” to the programming offered by the unaffiliated cable operator.<sup>14</sup> The programming offered by a competing MVPD is deemed “comparable” if it includes “at least 12 channels of video programming, including at least one channel of nonbroadcast service programming.”<sup>15</sup> The Commission’s decisions have repeatedly concluded that the DBS Providers satisfy § 76.905(g)’s comparable programming criterion.<sup>16</sup>

The programming offered by DirecTV and Dish Network, listings of which are available at [www.directv.com](http://www.directv.com) and [www.dishnetwork.com](http://www.dishnetwork.com),<sup>17</sup> includes many of the same popular nonbroadcast and broadcast programming services available on Time Warner Cable’s system serving the Franchise Areas. The DBS Providers’ programming lineups amply demonstrate that at least twelve channels of video programming are offered, including at least one channel of nonbroadcast programming service.<sup>18</sup> Thus, the DBS Providers offer “comparable” multichannel

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<sup>14</sup> 47 U.S.C. § 543(l)(1)(B)(i).

<sup>15</sup> 47 C.F.R. § 76.905(g).

<sup>16</sup> See *ACC Cable Communications, FLA-VA, LLC*, 18 FCC Rcd 7110, ¶ 6 (Med. Bur. 2003) (Town of Lake Waccamaw and Town of Tabor City, North Carolina) (“...the Commission has repeatedly concluded that the programming of DBS providers, such as DIRECTV and Dish, satisfy the Commission’s [comparable] programming criterion”); *Adelphia Effective Competition Order* at ¶ 7 (“Because different sets of rules govern which stations cable operators and DBS service providers can or must carry, we have never insisted on absolute parity in station offerings. Instead, an MVPD offers ‘comparable programming’ if it offers ‘at least 12 channels of video programming, including at least one channel of nonbroadcast service programming’”); *Time Warner Entertainment-Advance/Newhouse Partnership*, 20 FCC Rcd 15709, n. 15 (Med. Bur. 2005) (Nineteen California Franchise Areas) (“the DBS providers offer well over 100 channels, most of which are non-broadcast channels,” which satisfies the comparable programming criterion).

<sup>17</sup> See *The Helicon Group, L.P.*, 17 FCC Rcd 16636, n. 8 (Med. Bur. 2002) (Barnet, Vermont) (“While Charter did not provide in its Petition a copy of EchoStar’s nationwide channel lineup, which is otherwise available at [www.dishnetwork.com](http://www.dishnetwork.com), we have consistently found that the programming of both DBS providers satisfies the programming compatibility component of the competing provider effective competition test.”).

<sup>18</sup> The DBS Providers satisfy the program comparability standard regardless of whether they provide local-into-local service to the Franchise Area. See *Falcon Telecable*, 17 FCC Rcd 22842, ¶ 4 (Med. Bur. 2002) (Four Texas Communities) (“[T]he Commission’s effective competition program comparability standard does not include a local television programming component.”).

video programming, as defined by the Commission, to actual and potential subscribers in the Franchise Areas.

**C. The DBS Providers Offer Comparable Multichannel Video Programming to More Than 50 Percent of the Households in the Franchise Areas.**

As noted above, at least one MVPD unaffiliated with the incumbent cable operator must offer comparable video programming to at least 50 percent of the households in a franchise area for the first prong of the 50/15 effective competition test to be met.<sup>19</sup> In numerous effective competition decisions, the Commission has concluded that the DBS Providers are deemed to satisfy this 50 percent threshold due to their nationwide satellite footprints.<sup>20</sup> Accordingly, since the DBS Providers offer comparable programming to greater than 50 percent of the households in the Franchise Areas, the first prong of the 50/15 effective competition test is satisfied.

**D. The Number of Households Subscribing to the Programming Services of Competing MVPDs Exceeds 15 Percent of the Households in the Franchise Areas.**

The subscriber base of any MVPD or MVPDs,<sup>21</sup> other than the largest MVPD, must exceed 15 percent of the households in a franchise area to meet the second prong of the 50/15 test. As demonstrated below, Time Warner Cable's cable system meets this threshold with respect to the Franchise Areas.<sup>22</sup> Time Warner Cable is the largest MVPD in each of these Franchise Areas because it has the most video subscribers in each community.

Time Warner Cable has used the ZIP+4 methodology previously approved by the Commission in numerous decisions to calculate the DBS Providers' subscribership in the

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<sup>19</sup> See 47 C.F.R. § 76.905(b)(2)(i).

<sup>20</sup> See note 9.

<sup>21</sup> See *Time Warner Entertainment Co., L.P., et al. v. FCC*, 56 F.3d 151 (D.C. Cir. 1995) (holding that the subscribership of all MVPDs, other than the largest MVPD, may be aggregated to satisfy the 15 percent threshold). See also 47 C.F.R. § 76.905(f).

<sup>22</sup> See attached Declaration of Ed Kozelek, Regional Vice President of Governmental Relations – Midwest for Time Warner Cable.

Franchise Areas.<sup>23</sup> Attached as Exhibit A is a report from Media Business Corp. (“MBC”) which has identified all of the ZIP+4 zip codes that are encompassed, in whole or in part, by each of these Franchise Areas by using mapping software based on data derived from the U.S. Census Bureau and the U.S. Postal Service. Attached as Exhibit B are the Census 2010 occupied household figures for each of these Franchise Areas. Attached as Exhibit C are reports from the Satellite Broadcasting Communications Association (“SBCA”), which has been charged with the task of providing the required DBS Provider combined subscriber data for effective competition purposes, providing DBS Provider subscriber counts for each Franchise Area and each of the identified ZIP+4 zip codes. Based on this data and summarized in the following table, the DBS providers’ subscriber penetration levels clearly exceed 15% in each of these Franchise Areas.

<b>Community</b>	<b>DBS Provider Subscribership</b>	<b>2010 Census Occupied Households</b>	<b>DBS Provider Penetration</b>
Bromley	74	316	23.42%
Butler	41	223	18.39%
Crestview Hills	250	1,388	18.01%
Dry Ridge	190	809	23.49%
Fairview	16	60	26.67%

Consequently, Time Warner Cable has demonstrated that the second prong of the 50/15 effective competition test has been met for each of these Franchise Areas.

<sup>23</sup> See, e.g., *Marcus Cable Associates, LLC d/b/a Charter Communications, Inc.*, DA 02-2174, 17 FCC Rcd 16652 (Media Bureau 2002) (Denton, Texas), *aff’d* 18 FCC Rcd 9762 (Media Bureau 2003); see also *Vicksburg Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2176, 17 FCC Rcd 16659 (Media Bureau 2002) (Vicksburg, Mississippi); *Kilgore Video, Inc. d/b/a Wehco Video, Inc.*, DA 02-2177, 17 FCC Rcd 16662 (Media Bureau 2002) (Kilgore, Texas); *Twelve Oregon Cities Order*.

## CONCLUSION

Because Time Warner Cable has demonstrated that it is subject to effective competition pursuant to Section 623(l)(1) of the Act and Section 76.905(b) of the Commission's rules for the above captioned Franchise Areas, Time Warner Cable respectfully requests that the Commission expeditiously find that Time Warner Cable's cable system serving the Franchise Areas is not subject to rate regulation as to basic cable service or other forms of rate regulation specified in 47 U.S.C. § 543 and revoke the LFAs' certification to regulate basic rates as appropriate.

Undersigned counsel has read the foregoing Petition, and to the best of such counsel's knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and is not interposed for any improper purpose.

Respectfully submitted,

**TIME WARNER CABLE INC.**

By: 

Craig A. Gilley

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(202) 478-7370  
Its Attorneys

Dated: November 6, 2013



### DECLARATION

I, Ed Kozelek, hereby declare under penalty of perjury that:

1. I am the Regional Vice President of Government Relations – Midwest for Time Warner Cable, the operator of the cable system that serves the specific Franchise Areas involved in the foregoing Petition for Special Relief ("Petition").
2. I have read the foregoing Petition and am familiar with the contents thereof and the matters referred to therein.
3. I have reviewed Time Warner Cable's respective cable subscriber numbers for each of the communities involved in the Petition, as well as the DBS subscriber numbers provided by SBCA and allocated to each as described in the Petition. Time Warner Cable is the largest multichannel video program provider serving each of the Franchise Areas.
4. The facts contained within the Petition are true and correct to the best of my knowledge, information and belief.

Ed Kozelek  
Ed Kozelek

Date: 11/6/13

## **EXHIBIT A**

### **Media Business Corp. Zip Code Identification Report**

# Franchise & ZIP+4 Identification

## Data Documentation

**Franchise:** Cable operator's franchised service area

*Franchise boundary file vintage : County June 2011 (source : Dynamap), MCD June 2011 (source : Dynamap), Place June 2011 (source : Dynamap)*

*Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.*

**FIPS:** One of a series of codes, issued by the National Institute of Standards and Technology (NIST), assigned for the purpose of ensuring uniform identification of geographic entities throughout all Federal Government programs and agencies.

Each officially recognized Census place has its own unique 5-10 digit identifier. For more information, please see

<http://www.census.gov/geo/www/fips/fips.html>.

**County:** Census county in which the franchise resides

**State:** State in which the franchise resides

**ZIP:** United States Postal Service 5-digit ZIP code that covers, either in whole or in part, the cable operator's franchise area.

*ZIP Code boundary file vintage : September 2011 (source : Dynamap)*

*Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.*

**PLUS4:** USPS +4 extension to the 5-digit ZIP code. Using geocoding technology, and using only +4s that could be determined to be entirely within the cable operator's franchise area, MBC determined that each of the ZIP+4s on the tab(s) included in this repo

**ZIP4:** 5-Digit USPS ZIP code and 4-digit extension.

*ZIP+4 boundary file vintage : September 2011 (source : Dynamap)*

*Vintage is the currency of the data as of a specific date and does not correspond exactly to the time of product release because of data-to-product production time.*

**USPS Record Type:** H - high-rise; F - firm; S - street; R - rural route/highway contract; P - post office box; G - general delivery.

\* Type H Records (High Rises, Buildings, Apartments) are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit ZIP centroid is assigned.

\* Type F Records (Firms) are assigned a ZIP+4 centroid based on the actual address. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

\* Type S Records (Streets) are assigned a ZIP+4 centroid that falls on an address range. If a ZIP+4 centroid cannot be assigned, a ZIP+2 or 5-digit centroid is assigned.

\* Type R Records (Rural Routes) are assigned ZIP+2 centroids if possible. In cases where this is not possible, a 5-digit centroid is assigned.

\* Type P (P.O. Box) and Type G (General Delivery Records) are assigned a 5-digit centroid.

**ZIP Type:** ZIP Type as defined by Dynamap. ZIP Type N = non-unique ZIP, P = PO Box, U = Unique ZIP, M = Military ZIP, G = Tele Atlas, Inc. (GDT, Inc.) ZIP (zero delivery area).

**Centroid Type:** Each record includes a centroid type code that indicates whether the ZIP+4 has been assigned a ZIP+4, ZIP+2 or 5-digit ZIP centroid.

\* ZIP+4 - 1

\* ZIP+2 - 2

\* 5-digit ZIP - 3

\* None - 0

**Percent of ZIP in FIPS:** The percentage of the ZIP code that is within the geography's borders.

**Full ZIP4 coverage:** 1 = all ZIP+4's of a ZIP code fall within the geography's borders. 0 = not all ZIP+4's of a ZIP code fall within the geography's borders.

**Census 2010 HHS:** Count of Census 2010 households by community. For Counties and Minor Civil Divisions (MCDs), HHS reflect count of community minus any incorporated areas within the larger franchise.

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Crestview Hills	Kenton	KY	41017 5479	410175479	Dry Ridge	Grant	KY	41035 7051	410357051
Crestview Hills	Kenton	KY	41017 5480	410175480	Dry Ridge	Grant	KY	41035 7052	410357052
Crestview Hills	Kenton	KY	41017 5481	410175481	Dry Ridge	Grant	KY	41035 7053	410357053
Crestview Hills	Kenton	KY	41017 5482	410175482	Dry Ridge	Grant	KY	41035 7054	410357054
Crestview Hills	Kenton	KY	41017 5483	410175483	Dry Ridge	Grant	KY	41035 7066	410357066
Crestview Hills	Kenton	KY	41017 5484	410175484	Dry Ridge	Grant	KY	41035 7067	410357067
Crestview Hills	Kenton	KY	41017 5485	410175485	Dry Ridge	Grant	KY	41035 7116	410357116
Crestview Hills	Kenton	KY	41017 5486	410175486	Dry Ridge	Grant	KY	41035 7156	410357156
Crestview Hills	Kenton	KY	41017 5487	410175487	Dry Ridge	Grant	KY	41035 7157	410357157
Crestview Hills	Kenton	KY	41017 5488	410175488	Dry Ridge	Grant	KY	41035 7158	410357158
Crestview Hills	Kenton	KY	41017 5489	410175489	Dry Ridge	Grant	KY	41035 7160	410357160
Crestview Hills	Kenton	KY	41017 5490	410175490	Dry Ridge	Grant	KY	41035 7161	410357161
Crestview Hills	Kenton	KY	41017 5491	410175491	Dry Ridge	Grant	KY	41035 7162	410357162
Crestview Hills	Kenton	KY	41017 5492	410175492	Dry Ridge	Grant	KY	41035 7163	410357163
Crestview Hills	Kenton	KY	41017 5493	410175493	Dry Ridge	Grant	KY	41035 7164	410357164
Crestview Hills	Kenton	KY	41017 5494	410175494	Dry Ridge	Grant	KY	41035 7165	410357165
Crestview Hills	Kenton	KY	41017 5495	410175495	Dry Ridge	Grant	KY	41035 7167	410357167
Crestview Hills	Kenton	KY	41017 5496	410175496	Dry Ridge	Grant	KY	41035 7168	410357168
Crestview Hills	Kenton	KY	41017 5497	410175497	Dry Ridge	Grant	KY	41035 7169	410357169
Crestview Hills	Kenton	KY	41017 5498	410175498	Dry Ridge	Grant	KY	41035 7171	410357171
Crestview Hills	Kenton	KY	41017 5499	410175499	Dry Ridge	Grant	KY	41035 7172	410357172
Crestview Hills	Kenton	KY	41017 9000	410179000	Dry Ridge	Grant	KY	41035 7173	410357173
Crestview Hills	Kenton	KY	41017 9224	410179224	Dry Ridge	Grant	KY	41035 7174	410357174
Crestview Hills	Kenton	KY	41017 9691	410179691	Dry Ridge	Grant	KY	41035 7184	410357184
Dry Ridge	Grant	KY	41035 0000	410350000	Dry Ridge	Grant	KY	41035 7200	410357200
Dry Ridge	Grant	KY	41035 1500	410351500	Dry Ridge	Grant	KY	41035 7202	410357202
Dry Ridge	Grant	KY	41035 1500	410351500	Dry Ridge	Grant	KY	41035 7203	410357203
Dry Ridge	Grant	KY	41035 1600	410351600	Dry Ridge	Grant	KY	41035 7207	410357207
Dry Ridge	Grant	KY	41035 6872	410356872	Dry Ridge	Grant	KY	41035 7209	410357209
Dry Ridge	Grant	KY	41035 7000	410357000	Dry Ridge	Grant	KY	41035 7222	410357222
Dry Ridge	Grant	KY	41035 7001	410357001	Dry Ridge	Grant	KY	41035 7223	410357223
Dry Ridge	Grant	KY	41035 7002	410357002	Dry Ridge	Grant	KY	41035 7224	410357224
Dry Ridge	Grant	KY	41035 7003	410357003	Dry Ridge	Grant	KY	41035 7225	410357225
Dry Ridge	Grant	KY	41035 7004	410357004	Dry Ridge	Grant	KY	41035 7226	410357226
Dry Ridge	Grant	KY	41035 7005	410357005	Dry Ridge	Grant	KY	41035 7229	410357229
Dry Ridge	Grant	KY	41035 7006	410357006	Dry Ridge	Grant	KY	41035 7230	410357230
Dry Ridge	Grant	KY	41035 7007	410357007	Dry Ridge	Grant	KY	41035 7232	410357232
Dry Ridge	Grant	KY	41035 7008	410357008	Dry Ridge	Grant	KY	41035 7233	410357233
Dry Ridge	Grant	KY	41035 7009	410357009	Dry Ridge	Grant	KY	41035 7235	410357235
Dry Ridge	Grant	KY	41035 7010	410357010	Dry Ridge	Grant	KY	41035 7236	410357236
Dry Ridge	Grant	KY	41035 7011	410357011	Dry Ridge	Grant	KY	41035 7237	410357237
Dry Ridge	Grant	KY	41035 7012	410357012	Dry Ridge	Grant	KY	41035 7239	410357239
Dry Ridge	Grant	KY	41035 7013	410357013	Dry Ridge	Grant	KY	41035 7240	410357240
Dry Ridge	Grant	KY	41035 7014	410357014	Dry Ridge	Grant	KY	41035 7241	410357241
Dry Ridge	Grant	KY	41035 7022	410357022	Dry Ridge	Grant	KY	41035 7242	410357242
Dry Ridge	Grant	KY	41035 7038	410357038	Dry Ridge	Grant	KY	41035 7243	410357243
Dry Ridge	Grant	KY	41035 7039	410357039	Dry Ridge	Grant	KY	41035 7244	410357244
Dry Ridge	Grant	KY	41035 7040	410357040	Dry Ridge	Grant	KY	41035 7245	410357245
Dry Ridge	Grant	KY	41035 7041	410357041	Dry Ridge	Grant	KY	41035 7246	410357246
Dry Ridge	Grant	KY	41035 7042	410357042	Dry Ridge	Grant	KY	41035 7250	410357250
Dry Ridge	Grant	KY	41035 7043	410357043	Dry Ridge	Grant	KY	41035 7251	410357251
Dry Ridge	Grant	KY	41035 7044	410357044	Dry Ridge	Grant	KY	41035 7256	410357256
Dry Ridge	Grant	KY	41035 7045	410357045	Dry Ridge	Grant	KY	41035 7257	410357257
Dry Ridge	Grant	KY	41035 7046	410357046	Dry Ridge	Grant	KY	41035 7258	410357258
Dry Ridge	Grant	KY	41035 7047	410357047	Dry Ridge	Grant	KY	41035 7259	410357259
Dry Ridge	Grant	KY	41035 7048	410357048	Dry Ridge	Grant	KY	41035 7260	410357260
Dry Ridge	Grant	KY	41035 7049	410357049	Dry Ridge	Grant	KY	41035 7265	410357265
Dry Ridge	Grant	KY	41035 7050	410357050	Dry Ridge	Grant	KY	41035 7266	410357266



## **EXHIBIT B**

### **2010 Census Household Population**



GCT-PL2 - Kentucky: Population and  
Housing Occupancy Status: 2010 - State --  
Place  
2010 Census Redistricting Data (Public  
Law 94-171) Summary File

NOTE: For information on confidentiality  
protection, nonsampling error, and  
definitions, see  
<http://www.census.gov/prod/cen2010/pl94-171.pdf>

NOTE: Change to the  
California, Connecticut, Mississippi, New  
Hampshire, Virginia, and Washington P. L.  
94-171 Summary Files as delivered.

Geographic area	Total	Housing units		
		Total	Occupied	Vacant
Kentucky	4,339,367	1,927,164	1,719,965	207,199
Bellewood city	321	135	130	5
Blue Ridge Manor city	767	450	414	36
Brandenburg city	2,643	1,158	1,061	97
Houston Acres city	507	233	228	5
La Grange city	8,082	3,189	2,964	225
Maryhill Estates city	179	63	62	1
Moorland city	431	208	195	13
Muldraugh city	947	539	416	123
River Bluff city	403	151	149	2
Strathmoor Manor city	337	141	136	5
Woodland Hills city	696	294	282	12
Worthville city	185	85	68	17

## **EXHIBIT C**

### **SBCA Effective Competition Tracking Reports**

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Report Date: October 22, 2013

Data is current through 9/30/2013

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

## ECTR – Effective Competition Tracking Report



Provided by  
Satellite Broadcasting and Communications Association

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Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated October 18, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: October 22, 2013

| ZIP Codes | DTH Count |
|-----------|-----------|
|-----------|-----------|

|                                |    |
|--------------------------------|----|
| Requested total for Butler, KY | 41 |
|--------------------------------|----|

Data is current through 9/30/2013

Report Prepared by:  
Martin Esteves  
Manager, Membership and Data Management  
202-349-3630  
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

## ECTR – Effective Competition Tracking Report



Provided by  
Satellite Broadcasting and Communications Association

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Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated October 18, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: October 22, 2013

ZIP Codes

DTH Count

|                                         |     |
|-----------------------------------------|-----|
| Requested total for Crestview Hills, KY | 250 |
|-----------------------------------------|-----|

Data is current through 9/30/2013

Report Prepared by:  
Martin Esteves  
Manager, Membership and Data Management  
202-349-3630  
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

## ECTR – Effective Competition Tracking Report



Provided by  
Satellite Broadcasting and Communications Association

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Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated October 18, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: October 22, 2013

| ZIP Codes                         | DTH Count |
|-----------------------------------|-----------|
| Requested total for Dry Ridge, KY | 190       |

Data is current through 9/30/2013

Report Prepared by:  
Martin Esteves  
Manager, Membership and Data Management  
202-349-3630  
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

## ECTR – Effective Competition Tracking Report



Provided by  
Satellite Broadcasting and Communications Association

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Pursuant to Section 76.907(c) of the FCC Rules, and your effective competition tracking request dated October 18, 2013 please find the following Direct-to-Home (DTH) satellite subscriber numbers per zip code (and/or zip+4 where necessary). The provision and use of this Effective Competition Tracking Report is governed by and subject to the terms and conditions of the Agreement for Provision and Use of Confidential Data, between your company and SBCA.

Report Date: October 22, 2013

ZIP Codes

DTH Count

|                                  |    |
|----------------------------------|----|
| Requested total for Fairview, KY | 16 |
|----------------------------------|----|

Data is current through 9/30/2013

Report Prepared by:  
Martin Esteves  
Manager, Membership and Data Management  
202-349-3630  
mesteves@sbca.org

Methodology: Direct-To-Home (DTH) subscriber data reflects aggregated DIRECTV and DISH Network residential subscriber totals. The following data collection procedures are applied by Members in the normal course of business: a) single accounts with multiple receivers are only counted once; b) commercial and test accounts are not included; c) each occupied unit served in a multiple dwelling unit building has been counted as a separate residential subscriber; d) zip codes are taken from service locations (not billing addresses, where different); e) inactive accounts are routinely removed; f) invalid (undeliverable) addresses have been corrected where known; g) courtesy or complimentary accounts are included; and h) zip code information for Members' subscribers is periodically updated to reflect changes to zip codes by the United States Postal Service.

**CERTIFICATE OF SERVICE**

I, Penny Evetts, a secretary at the law firm of Edwards Wildman Palmer LLP, hereby certify that, on this 6th day of November, 2013, copies of the foregoing "Petition for Special Relief" were sent via first-class mail, postage prepaid, to the following:

William Lake, Esq.\*  
Chief, Media Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

William M. Wiltshire, Esq.  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N.W., Suite 1200  
Washington, D.C. 20036-2506  
*Counsel for DirecTV, Inc.*

Pantelis Michalopoulos, Esq.  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
*Counsel for EchoStar Communications Corp.*

City of Bromley  
Mayor Dave Radford  
226 Boone  
Bromley, Kentucky 41016

City of Butler:  
Mayor Alice Smith  
P.O. Box 388  
102 Front Street  
Butler, Kentucky 41006

City of Crestview Hills  
Mayor Paul W. Meier  
50 Town Center Boulevard  
Crestview Hills, Kentucky 41017

City of Fairview  
Mayor Harry Sprott  
P.O. Box 121  
10045 Decoursey Pike  
Covington, Kentucky 41015

City of Dry Ridge  
Mayor Clay Crupper  
P.O. Box 145  
Dry Ridge, Kentucky 41035

\*Via ECFS

  
Penny Evetts



# Agency Tracking ID:PGC2411841 Authorization Number:02220G

## Successful Authorization -- Date Paid: 11/6/13 FILE COPY ONLY!!

|                                                                                                                                            |                                                                                                    |                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| READ INSTRUCTIONS<br>CAREFULLY BEFORE<br>PROCEEDING<br><br>(1) LOCKBOX #979089                                                             | FEDERAL COMMUNICATIONS COMMISSION<br><b>REMITTANCE ADVICE</b><br><b>FORM 159</b><br>PAGE NO 1 OF 1 | APPROVED BY OMB<br>3060-059<br><br>SPECIAL USE<br><br>FCC USE ONLY |
| <b>SECTION A - Payer Information</b>                                                                                                       |                                                                                                    |                                                                    |
| (2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)<br><b>Time Warner Cable Inc.</b>                  |                                                                                                    | (3) TOTAL AMOUNT PAID (dollars and cents)<br><b>\$2710.00</b>      |
| (4) STREET ADDRESS LINE NO. 1<br><b>60 Columbus Circle</b>                                                                                 |                                                                                                    |                                                                    |
| (5) STREET ADDRESS LINE NO. 2                                                                                                              |                                                                                                    |                                                                    |
| (6) CITY<br><b>New York</b>                                                                                                                | (7) STATE<br><b>NY</b>                                                                             | (8) ZIP CODE<br><b>10023</b>                                       |
| (9) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE)<br><b>212-3648482</b>                                                                   |                                                                                                    | (10) COUNTRY CODE (IF NOT IN U.S.A.)<br><b>US</b>                  |
| <b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>                                                          |                                                                                                    |                                                                    |
| (11) PAYER (FRN)<br><b>0007556251</b>                                                                                                      |                                                                                                    | (12) FCC USE ONLY                                                  |
| IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B<br>IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) |                                                                                                    |                                                                    |
| (13) APPLICANT NAME<br><b>Time Warner Cable Inc.</b>                                                                                       |                                                                                                    |                                                                    |
| (14) STREET ADDRESS LINE NO. 1<br><b>60 Columbus Circle</b>                                                                                |                                                                                                    |                                                                    |
| (15) STREET ADDRESS LINE NO. 2                                                                                                             |                                                                                                    |                                                                    |
| (16) CITY<br><b>New York</b>                                                                                                               | (17) STATE<br><b>NY</b>                                                                            | (18) ZIP CODE<br><b>10023</b>                                      |
| (19) DAYTIME TELEPHONE NUMBER (INCLUDING AREA CODE)<br><b>212-3648482</b>                                                                  |                                                                                                    | (20) COUNTRY CODE (IF NOT IN U.S.A.)<br><b>US</b>                  |
| <b>FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED</b>                                                          |                                                                                                    |                                                                    |
| (21) APPLICANT (FRN)<br><b>0007556251</b>                                                                                                  |                                                                                                    | (22) FCC USE ONLY                                                  |
| <b>COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET</b>                                               |                                                                                                    |                                                                    |
| (23A) FCC Call Sign/Other ID<br><b>004604</b>                                                                                              | (24A) Payment Type Code(PTC)<br><b>TQC</b>                                                         | (25A) Quantity<br><b>1</b>                                         |
| (26A) Fee Due for (PTC)<br><b>\$1,355.00</b>                                                                                               | (27A) Total Fee<br><b>\$1355.00</b>                                                                | FCC Use Only                                                       |
| (28A) FCC CODE 1<br><b>KY0450</b>                                                                                                          | (29A) FCC CODE 2<br><b>x</b>                                                                       |                                                                    |
| (23B) FCC Call Sign/Other ID<br><b>006106</b>                                                                                              | (24B) Payment Type Code(PTC)<br><b>TQC</b>                                                         | (25B) Quantity<br><b>1</b>                                         |
| (26B) Fee Due for (PTC)<br><b>\$1,355.00</b>                                                                                               | (27B) Total Fee<br><b>\$1355.00</b>                                                                | FCC Use Only                                                       |
| (28B) FCC CODE 1<br><b>KY0664</b>                                                                                                          | (29B) FCC CODE 2<br><b>x</b>                                                                       |                                                                    |

**Online Payment****Step 3: Confirm Payment****1 | 2 | 3****Thank you.****Your transaction has been successfully completed.****Pay.gov Tracking Information****Application Name:** Remittance Advice**Pay.gov Tracking ID:** 25D214UK**Agency Tracking ID:** PGC2411841**Transaction Date and Time:** 11/06/2013 14:37 EST**Payment Summary**

| Address Information                                                                                                                                                                                                                                | Account Information                                     | Payment Information                                                                                   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| <b>Account Holder</b> Robert C.<br><b>Name:</b> McGowan<br><b>Billing Address:</b> 20 Church Street<br><b>Billing Address 2:</b><br><b>City:</b> Hartford<br><b>State / Province:</b> CT<br><b>Zip / Postal Code:</b> 06103<br><b>Country:</b> USA | <b>Card Type:</b> Visa<br><b>Card Number:</b> *****9545 | <b>Payment Amount:</b> \$2,710.00<br><b>Transaction Date</b> 11/06/2013 14:37<br><b>and Time:</b> EST |